

REMARKS

Claims 1-20 are pending in this application. Claims 21 and 22 were previously canceled. Claims 1-9 have been indicated as allowable and claims 10-20 have been rejected. By this amendment, claims 10 and 16 have been canceled, new claims 23 and 24 have been added, and several claims have been amended. No new matter has been introduced. Claims 1-9, 11-15, 17-20 and 23-24 remain pending before the Office.

Priority

Applicants note with appreciation the acknowledgement of the priority claim.

Allowable Claims

Applicants note with appreciation the indication of the allowability of claims 1-9 drawn to the compounds and compositions of the invention. No amendments have been made to the allowed claims. Applicants Respectfully submit that the remaining claims are also allowable in light of the amendments and remarks herein.

Claim Rejections

35 U.S.C. § 112, second paragraph

Claim 15 stands rejected for alleged indefiniteness under 35 U.S.C. § 112, second paragraph. The action indicates claim 15 is “self-conflicting” because it does not include a dosage limit, and according to the Action, therefore, includes both ineffective and toxic amounts. This is in contrast to the Action’s admission in the previous sentence that “Pharmaceutical composition by definition must be effective yet non-toxic.” Thus, Applicants respectfully assert that by the Office’s own definition, the claim is not indefinite, since “pharmaceutical composition” clearly indicates that the amount of the active compound, by definition, is both effective and non-toxic. In the interest of advancing prosecution, however, Applicants have amended claim 15 in accordance with the Examiner’s helpful suggestion to refer to a “therapeutically effective amount” with regard to the compounds of the invention. Applicants respectfully assert that this amendment is not narrowing in any way, and is made merely to further clarify the meaning already associated with “pharmaceutical composition.” Claim 15 is now in condition for allowance.

35 U.S.C. § 112, First paragraph

Claims 10-14, and 16-20 stand rejected under 35 U.S.C. § 112, first paragraph for allegedly lacking enablement for preventing diseases. Applicants note the Action's clear admission that the specification is "enabling for treating specific diseases." Applicants have canceled claims 10 and 16 and amended claims 12 and 18 to delete the term "prophylaxis." The amended claims are to methods of treating the various conditions. The remaining claims either depend directly or indirectly from claims 10 or 16 or, as in the case of claims 14 and 20, do not contain the prophylaxis language. Withdrawal of the rejection is respectfully requested.

Claims 10-14 and 16-20 are further rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the enablement requirement. The rejection appears to be based on the alleged lack of enablement for treating neurological disorders. (see Office Action, page 8, "it is not seen where the instant claims 10-14 and 16-20, for treating a disease selected from the group consisting of neurological disorders using compounds of claim 1, have been enabled by the instant specification.") It also appears that the Action acknowledges that the claims directed to treating diseases, disorders, or conditions other than the neurological disorders are enabled. Although Applicants believe the treatment of neurological disorders, particularly those specifically named in the specification and claims are enabled, the claims have been amended to remove reference to the neurological disorders, generally and specifically, as an administrative expedient to advance prosecution.

Claims 14 and 20, directed to methods of cessation of smoking, are enabled. Claims 14 and 20 depend from claims 1 and 15, respectively, and do not, nor did they, depend from a claim setting forth the allegedly non-enabled treatment of neurological disorders. Accordingly, Applicants respectfully assert that claim 14, as originally filed, and claim 20 (with the amendment of claim 15) are now in condition for allowance. Withdrawal of the 35 U.S.C. § 112, second paragraph rejection of claim 14 and 20 is respectfully requested.

Applicants respectfully assert that the methods of treating psychological disorders or intellectual impairment disorders of claims 12 and 18 are enabled. Claims 12 and 18 have been rewritten in independent form with deletion of the "neurological disorders,". Thus, rendering the rejection of these claims moot. Withdrawal of the rejection of claims 12 and 18 is respectfully requested.

Claims 10 and 16 have been canceled without prejudice or disclaimer of the subject matter contained therein. Applicants respectfully reserve the right to pursue the canceled subject matter in one or more continuing applications.

Claims 11 and 17 claim methods of treating anxiety, schizophrenia, mania or manic depression, all psychological disorders. The claims have been rewritten to depend from independent claims 12 and 18, respectively.

Claims 13 and 19, which depend from claims 12 and 18, respectively, have been amended to list only those disorders that are intellectual impairment disorders, Alzheimer's disease, learning deficit, cognition deficit, attention deficit, memory loss, and Attention Deficit Hyperactivity Disorder. The claims now satisfy 35 U.S.C. § 112.

New claims 23 and 24, depend from claims 12 and 18, respectively, and set forth method claims for treating specific disorders or conditions that are not necessarily a neurological disorder, psychological disorder, or an intellectual impairment disorder, but nevertheless can be treated with compounds or compositions of the invention. These include jetlag, nicotine addiction, craving, pain, and ulcerative colitis.

Applicants respectfully assert that although they believe the specification is enabling for each of the specific diseases, disorders and conditions listed in the specification, the claims have been amended to remove reference to the neurological disorders generally and specifically. The claims as amended are supported by an enabling disclosure.

Applicants respectfully assert that no new matter has been introduced by the claim amendments or the new claims. All pending claims now satisfy 35 U.S.C. § 112 and are in condition for allowance along with allowed claims 1-9. Applicants respectfully request withdrawal of the 35 U.S.C. § 112 rejections.

Early reconsideration and allowance of the pending claims is respectfully requested.

The Commissioner is hereby authorized to charge any fee or underpayment thereof or credit any overpayment to deposit account no. 26-0166.

Early reconsideration and allowance of all pending claims is respectfully requested. The examiner is requested to contact the undersigned attorney if an interview, telephonic or personal, would facilitate allowance of the claims.

Respectfully submitted,

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